

IN THE SENATE OF THE UNITED STATES.

APRIL 23, 1858.—Ordered to be printed.

Mr. SIMMONS made the following

REPORT.

[To accompany bill S. 283.]

*The Committee on Claims, to whom was referred the memorial of James Maccaboy, report :*

This memorialist, whilst engaged in the faithful discharge of his duty as a fireman on board the United States steam-dredge at the Washington navy yard, received a severe injury, which resulted in the loss of one of his legs above the knee joint.

The engineer in charge of the boat at the time deposes that the accident occurred while Maccaboy was engaged in the discharge of his duty, and, he believes, without any neglect or carelessness on his part. That he was out of sight of the engineer who, without being aware of his position, gave the order to start the machinery without giving him notice. This is corroborated by other testimony.

Commodore Forrest, commandant of the yard, says: "I should be pleased if the memorialist, who has been a faithful public servant, and who lost a leg in the performance of his duty, could be placed on the pension roll for the remainder of his life."

The case was favorably reported by the Committee on Claims at the last session of Congress, and the report then made is adopted as a part of this report.

The committee report a bill for the relief of James Maccaboy, and recommend its passage.

IN SENATE, February 13, 1857.

*The Committee on Claims, to whom was referred the memorial of James Maccaboy, report :*

The memorialist was in the employ of the United States as a fireman on board a steam-dredge at the Washington navy yard. While in the discharge of his duty, and, as it appears, without any fault on his part, he met with a casualty which resulted in the necessary amputation of one of his legs near the body. The accident occurred on the 13th day of August, 1855.

Commodore Forrest, commandant of the yard, says :

"I should be pleased if the memorialist, who has been a faithful public servant, and *who lost a leg in the performance of his duty*, could be placed on the pension roll for the remainder of his life. He is pretty well advanced in life, and cannot be expected to live many years longer."

The other officers of the yard concur in the same views.

While the committee would not recommend any departure from the established policy of the government, which limits the allowance of pensions to cases arising in the military or naval service, yet they believe cases may occur where a volunteer or laborer or mechanic may be as justly entitled to the bounty of his government for injuries received in its service as if such person had been regularly enlisted in the army or navy.

Where a skilful and industrious mechanic or laborer is employed by the government in a *necessary but dangerous service*, and, without any fault or negligence, receives, in the performance of his duty, an injury which permanently disables him from providing for those dependent upon his skill and labor for support, it would alike become the government or an individual employer to manifest their sympathy "in the only way calculated to carry conviction of its sincerity," by extending some measure of material aid and bounty. Such a case, it is believed, is presented by the petitioner.

As all cases of this character must necessarily come before Congress, and be passed or rejected upon their own intrinsic and individual merits, as appealing directly to the bounty and making no pretension to the legal obligations of the government, it is not regarded as belonging to that class of cases from which injurious precedents are likely to be drawn. These views are sustained by the action of Congress in 1847, in the case of James Jones, who received a severe injury while in the employment of the government as a rigger, although not enrolled or enlisted, it being regarded as one of those meritorious cases in which the government might and ought to interpose its bounty to save from poverty and want one who was made helpless while in their service.

Senate reports, 32d Congress, 1st session, No. 81 and No. 208, and 34th Congress, 1st session, No. 37 and No. 79, and report of House of Representatives, 31st Congress, 1st session, No. 289, recognize the same principles.

In conformity with these views, the committee report the accompanying bill, and recommend its passage.